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7  
8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:  
13 **RAY BILYEA ABRIAM-STEWART**  
14 Applicant/Respondent.

Case No. *2013-600*  
**STATEMENT OF ISSUES**

15 Complainant alleges:

16 **PARTIES**

17 1. Louise R. Bailey, M.Ed., RN (Complainant), brings this Statement of Issues solely in  
18 her official capacity as the Executive Officer of the Board of Registered Nursing (Board),  
19 Department of Consumer Affairs.

20 2. On or about August 17, 2011, the Board received an application for licensure as a  
21 registered nurse by examination from Ray Bilyea Abriam-Stewart (Respondent). On or about  
22 June 18, 2011, Respondent certified under penalty of perjury to the truthfulness of all statements,  
23 answers, and representations in the application. The Board denied the application on April 10,  
24 2012.

25 **JURISDICTION**

26 3. This Statement of Issues is brought before the Board under the authority of the  
27 following laws. All section references are to the Business and Professions Code (Code) unless  
28 otherwise indicated.

1           4. Code section 2736 provides, in pertinent part, that the Board may deny a license when  
2 it finds that the applicant has committed any acts constituting grounds for denial of licensure  
3 under Code section 480.

4           5. Code section 480 states:

5           “(a) A board may deny a license regulated by this code on the grounds that the applicant  
6 has one of the following:

7           “... ”

8           “(3) (A) Done any act that if done by a licentiate of the business or profession in question,  
9 would be grounds for suspension or revocation of license.

10           “(B) The board may deny a license pursuant to this subdivision only if the crime or act is  
11 substantially related to the qualifications, functions, or duties of the business or profession for  
12 which application is made. . .”

13           6. Code section 2761 states:

14           “The board may take disciplinary action against a certified or licensed nurse or deny an  
15 application for a certificate or license for any of the following:

16           “(a) Unprofessional conduct . . .”

17           7. Code section 2762 of the Code states:

18           “In addition to other acts constituting unprofessional conduct within the meaning of this  
19 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this  
20 chapter to do any of the following:

21           “(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed  
22 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or  
23 administer to another, any controlled substance as defined in Division 10 (commencing with  
24 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as  
25 defined in Section 4022.

26           “(b) Use any controlled substance as defined in Division 10 (commencing with Section  
27 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in  
28 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to

1 himself or herself, any other person, or the public or to the extent that such use impairs his or her  
2 ability to conduct with safety to the public the practice authorized by his or her license.

3 "..."

4 8. Code section 4060 provides:

5 "No person shall possess any controlled substance, except that furnished to a person upon  
6 the prescription of a physician, dentist, podiatrist, optometrist, veterinarian, or naturopathic doctor  
7 pursuant to Section 3640.7, or furnished pursuant to a drug order issued by a certified nurse-  
8 midwife pursuant to Section 2746.51, a nurse practitioner pursuant to Section 2836.1, a physician  
9 assistant pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a  
10 pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv) of subparagraph  
11 (A) of paragraph (5) of, subdivision (a) of Section 4052. This section shall not apply to the  
12 possession of any controlled substance by a manufacturer, wholesaler, pharmacy, pharmacist,  
13 physician, podiatrist, dentist, optometrist, veterinarian, naturopathic doctor, certified nurse-  
14 midwife, nurse practitioner, or physician assistant, when in stock in containers correctly labeled  
15 with the name and address of the supplier or producer."

#### 16 CONTROLLED SUBSTANCES/DANGEROUS DRUGS

17 9. Code section 4021 states:

18 "'Controlled substance' means any substance listed in Chapter 2 (commencing with  
19 Section 11053) of Division 10 of the Health and Safety Code."

20 10. Code section 4022 provides:

21 "'Dangerous drug' or 'dangerous device' means any drug or device unsafe for self-use in  
22 humans or animals, and includes the following:

23 "(a) Any drug that bears the legend: 'Caution: federal law prohibits dispensing without  
24 prescription,' 'Rx only,' or words of similar import.

25 "(b) Any device that bears the statement: 'Caution: federal law restricts this device to sale  
26 by or on the order of a \_\_\_\_\_,' 'Rx only,' or words of similar import, the blank to be filled  
27 in with the designation of the practitioner licensed to use or order use of the device.

28 ///

1       “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
2       prescription or furnished pursuant to Section 4006.”

3       11. Methamphetamine is a Schedule II controlled substance as designated by Health and  
4       Safety Code section 11055(d)(2), and a dangerous drug within the meaning of Code section 4022.  
5       Methamphetamine is a central nervous system stimulant used as a recreational drug for its  
6       euphoric and stimulant properties.

7                               **CAUSE FOR DENIAL OF APPLICATION**

8                               (Act that if Done by Licensee Would be Grounds for Discipline:  
9                               Possession, Use, Driving Under the Influence of Methamphetamine)

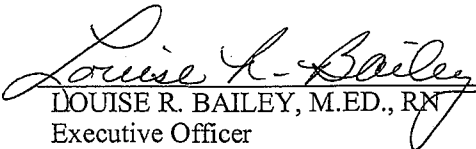
10       12. On or about February 23, 2005, Respondent smoked methamphetamine, possessed  
11       methamphetamine and drug paraphernalia, and drove his car while under the influence of  
12       methamphetamine with a passenger in the vehicle. Respondent's application is subject to denial  
13       pursuant to Code sections 2736 and 480(a)(3)(A) in that, if he were licensed as a registered nurse,  
14       Respondent's acts would be grounds for license suspension or revocation as unprofessional  
15       conduct pursuant to Code sections 2761(a), 2762(a), 2762(b), and/or 4060.

16                               **PRAYER**

17       WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
18       and that following the hearing, the Board of Registered Nursing issue a decision:

- 19       1. Denying Respondent Ray Bilyea Abriam-Stewart's application for licensure as a  
20       registered nurse by examination;  
21       2. Taking such other and further action as deemed necessary and proper.

22  
23       DATED: JANUARY 31, 2013

  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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